SWAMI RAMANAND TEERTH MARATHWADA UNIVERSITY, NANDED

NARAYANRAO CHAVAN LAW COLLEGE, NANDED

RESEARCH SYNOPSIS

ON

"ROLE OF STATE FOR THE PROTECTION AND PROMOTION OF JUVENILE WITH SPECIAL REFERANCE TO BAL SANKUL IN MAHARASHTRA"

GUIDE

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A RESEARCH SYNOPSIS SUBMITTED TO THE SWAMI RAMANAND TEERTH MARATHVADA UNIVERSITY NANDED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR REGISTRATION TO THE DOCTORATE DEGREE IN LAW PROGRAMME

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"ROLE OF STATE FOR THE PROTECTION AND PROMOTION OF JUVENILE WITH SPECIAL REFERANCE TO BAL SANKUL IN MAHARASHTRA"

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1.1 Introduction :-

India is today considered the second largest population country in the World crossing more than 125 cores. Nearly 30% children's are belonging to Juvenile and a limited number of children's stay in Juvenile home, the rest are homeless and stay on streets. The Juvenile Justice (Care and Protection of Children) Act 2015 is the key legislation for Juvenile Justice in India. The Act emphasizes the re-habitation and re-integration of children through various institutional and non-institutional measures. This Act also provides the establishment of Juvenile Justice Board which follows the procedure for trial of children in conflict with law. Juvenile Justice Board in case of children who found guilty of committing crime, such children are either lodged in Special Homes, Observation Homes under the Act The Ministry of Women and Child Development introduced a scheme in 2009-2010, namely the Integrated Child Protection Scheme (ICPS) which technical and financial support be provided by the State Government. The object of this scheme is to provide better environment for the children in conflict with law and the child in need of care and protection.

Much attention is not giving by the State in spite of several enacted laws and Supreme Court directions. Even there are several guidelines from the United Nation by way of Declaration, Convention and so on. The state machinery is adversely looking upon the budding children as they are future of the nation. In competitive world market, it is necessary that state should give due priority to these children's and take necessary care for the betterment of child and welfare of the nation.

1.2 Concept of Juvenile :-

The Juvenile Justice (Care and Protection of Children) Act 1986 was enacted with the object to provide to protection to the Juvenile up to the age of 16 years for Boy and 18 years for Girl. The object of the Act was to provide Uniform frame work for Juvenile Justice so, as to ensure that no any child under circumstances is lodge in prison or jail or police lock up for that purpose. The Act established Juvenile Justice Board.

The Juvenile Justice (Care & Protection of Children) Act was enacted in the year of 2000 to provide the protection of children up to the age of 18 years. This Act was also amended in the year 2006and 2011to fulfill the lacuna and make the law more child friendly. During the course of implementation of Juvenile Justice (care and protection of Children) Act 2000 different issues come forward basically related with

abuse of child in Aftercare Institution, Rehabilitation measures in homes, Inadequate facilities in Juvenile Homes, Adoption procedure etc .have provide the need to review the existing law. Further, increasing the crime rate committed by the children in the age of 16 to 18 years makes clear that current provisions is not able to tackle the child offender in this age group. It is necessary to enact a comprehensive legislation to provide for general principal of care and protection of child.
The Parliament enacted the new legislation Juvenile Justice (Care and Protection of Children) Act 2015 to provide for general principles of Care and Protection of Children In conflict with law. There rehabilitation social reintegration measures for such Children and offence committed against children. Under the Juvenile Justice (Care and Protection of Children) Act 2015, the Juvenile is person who is not completed the age of 16 years in case of male and 18 years in case of female. There are no enacted laws other than Juvenile Justice Act, this is hardly applicable to the entire Juvenile and they are treated rationally. The meaning of Juvenile now a day's goes on much widening than earlier.

1.3 Statement of Problem :-

The Researcher has selected the topic **"ROLE OF STATE FOR THE PROTECTION AND PROMOTION OF JUVENILE WITH SPECIAL REFERANCE TO BAL SANKUL IN MAHARASHTRA"** Whereas the Researcher identify certain socio, economic political, cultural and religious problems for discriminating among the Juveniles.

1.4 Reason for the Selection of Topic :-

Several amendments were made in the Juvenile Justice Act for the welfare of the Juvenile but the State is not giving as on today due attention towards Juveniles. In other words, it seems, the state is discriminating among the Juveniles in many ways as they are not par with other children's living in the same society. This problem is very serious, if not given due priority by the state, the future of the Nation will suffer by growing the ratio of discrimination within the society. Therefore, the State should enact such legislation that the children's including Juveniles homes to be treated equally and should be protected in accordance with the law.

1.5 Review of Literature :-

The Researcher has referred the following

A. Books :-

1. "Protection of Juveniles and Juvenile Justice System"- Author : Dr. P. S. Khadre Year 2015, Edi. Publisher- Hind Law Publication, 28, B, Budhawar Peth, A. B. Chowk, Pune 2.
2. "Law relating to Juvenile Justice and protection of offender" – Author : Siddharth Bawa, Year 2006, Edi. Publisher New ERA Law Publication, New Delhi
3. "Law relating to Juvenile Justice in India" – Author: R. N. Chowdhary, Year 2007, Edi. Second, Publisher Orient Publication Company, New Delhi

B. Articles :-

1. "Indian Bar Review " Author prof.(DR) B.Kumar And Kumari Swati,Vol.XLIII(2)2016,Publisher Bar Council Of India, 21, Rouse Avenue Institutional Area ,New Delhi 110002
2. Nyaya Deep, Author Dr. Sailaja Petikam, Vol. XVII, April 2016, National Legal Service Authority, 12/11, Jam Nagar House, Shahjahan Road, New Delhi 110011.
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4. Laws, Laws Bureau, Vol. X, Oct. 2016, Published by Anuj Arora,
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6. Journal of Minorities Rights, Author Dr. Seema Rathi, Dr. (Mrs) Sapna Singh, Vol. VI, Jan. 2015, Published by A.K.K. New Academy and Ph.D. Research Centre, 2390 B.K.B. Hidayatuallah Road, Camp, Pune.
7. "Juvenile Justice Act 2015" – Author : Jamunna Pankaj, Year 2016, Web.:http://www.legalservicesindia.com/article/article/Juvenile-Justice-act-2015-2147-1.html
8. "Juvenile Justice System in India" – Author : Nawaz Haque, Year 2012 Web.:http://www.legalservicesindia.com/article/article/Juvenile-Justice-act-2015-2147-1.html

C. Case Law :-

In *Sheela Barse v. Union Of India*[1], the Supreme Court of India held that, it is the constitutional obligation of states to enforce Children's Act District judge to visit jails and see that the benefit of Jail Manuals provided to Juvenile delinquent and it was also held that where a complaint or FIR is lodged against a child below 16 years for an offence punishable with imprisonment shall be completed within 3 months from the date of filing of complaint or FIR. If the investigation is not completed within this time, the case against the child must be treated as closed.

In *Pratap Sing v. State Of Jharkhand*[2], the Supreme Court held that "The reckoning date for the determination of the age of the Juvenile is the date of the offence and not the date when he is produced before the authority or in the court.

In *Pawan v. State Of Uttrakhand*[3], in this case the Supreme Court held that if the plea of juvenility was not raised before the trial court or the High Court and it raised for the first time before this court, the judicial conscience of the court must be satisfied by placing adequate and satisfactory material that the accused had not attained age of 18 years on the date of commission of offence.

1.6 Aims and Objectives of the Study:-

The Aims and Objective of the study are as follow.

A. The Aim of the Researcher is to collect the evidence on the action of research mainly focus in, the growing rate and changing scenario of Juvenile (Bal Sankul) and discrimination on Juvenile from the state as they are not adequately getting future career especially from Bal Sankul. The purpose is to find an alternative solution to eliminate the discrimination on children and make them par with other children's living in the society.

B. Objectives :-

The Study has accomplished the following objectives

1. To study of the Juvenile and reason for increasing the rate in Juvenile home.
2. To know, whether Juvenile is adequately treated in Juvenile home.
3. Whether Juvenile after attending a certain age will get quality higher education and good placement from the State.

[1] 1986 (3) SCC596
[2] 2005 (3) SCC551
[3] SC 2009 (2) RCR (Criminal) 451

4. To know whether Government will provide 100 % social security for Juvenile (prior or after). Whether they are taking proper care to Juvenile.
5. To know whether there is any proper classification or all they are treated equally. There are varieties of Juvenile staying in Juvenile homes and whether proper classification has done or not?
6. To know whether the Government will provide proper reformation of juvenile after release from juvenile homes.

1.7 Hypothesis :-

The Researcher has the following Hypothesis

1. The Juvenile home children's are not treated equally par with the society
2. There is no bright future for Juvenile staying in Juvenile homes
3. The State Juvenile policy and its implementation is very poor on part of Juvenile

4. The State always considers the Juvenile as a criminal in reality and it is far away from documentary recodes.

1.8 Methodology:-

In order to accomplish this research work and to yield the desire result, The researcher has to subscribe to both Doctrinal and Empirical methods of study.

The Study reveals the dedication of information from both primary and secondary sources. Wherever possible the Researcher has adopted Observation method while collecting the data.

A. Doctrinal Research :-

It covers various books, publications, records, case laws, web site, articles, journals, research papers and so on.

B. Empirical Research :-

1) Interview with the Juvenile, Juvenile home authorities and Juvenile staying in the society. If necessary, the Researcher will collect from other stake holders.

2) Methods of Data Collection: - Face to face Interview method in different four zones in the State of Maharashtra

3) Sampling Size and Assumption

4) Methods of Data Analysis

1.9 Limitation of the Study:-

The researcher is aware of his limitation in the present study which has been indicated here in.

1. The present study is confined mainly 4 different Districts in the State of Maharashtra 1) Nagpur 2) Aurangabad 3) Ahmednagar 4) Nashik

2. The Researcher for convenience chosen the period of 10 years from 2007 to 2017.

3. The Researcher solely relies upon the information provided by the interviewer and he relies upon the available primary and secondary sources.

4. The age group restricted below 16 years for boys and 18 years for girls.

5. The time, financial constraint and source of data made available are some of the major problems for study.

6. The Researcher also pickup for study purpose the Juvenile and /or Juvenile home for comparative study and to know the reason.

1.10 Mode of Citation:-

A standard mode of citation such as APA is followed. Footnotes are given on every page at the bottom.

1.11 Scheme of Chapter ration:-

The Researcher has classified and divided the remaining in to the following chapter.

CHAPTER I

Introduction (Bal Sankul)

CHAPTER II

Historical Background and concept of Juvenile (Bal Sankul)

2.0 The Historical background of the Juvenile (Bal Sankul) is broadly classified into different period.

2.1 Ancient Period :- The Ancient period covered the Vedic period which include the civilization of Mohenjo-Daro, Harappa, Sindh and Ganges Culture and their treatment towards Juvenile during this period.

2.2 Medieval Period :- The Medieval period covered 10^{th} to 14^{th} century of the different Rulers and their administration system towards Bal Sankul or Juvenile.

2.3 Moghul Period :- This period consist 14^{th} to 16^{th} century in India. The different Rulers ruled India and their treatment on Juvenile.

2.4 British Era :- It begging with East India Company and then British India. During the period of 16^{th} to 18^{th} century their educational and other Laws towards Juvenile uplifting.

2.5 Maratha Period :- This period relates to the 16^{th} Century headed by Chhatrapati Shivaji Maharaj and his way of uplifting of Juvenile.

2.6 Post Independence :- Since Independence, various enactments was passed including the Constitution of India. Various special provisions was made to the welfare of the Juvenile. The Juvenile Justice Act came in to existence in the year 1986 and their after amendments was brought to the Child Welfare. Various protective and stringent Laws was enacted on the Juvenile. The Juvenile Education was made it compulsory and Government started providing free and compulsory education with all other required facilities to the Juvenile.

2.7 Concept of Juvenile :- The Juvenile Justice (Care and Protection of Children) Act 1986 was enacted with the object to provide to protection to the Juvenile up to the age of 16 years for Boy and 18 years for Girl. The object of the Act was to provide Uniform frame work for Juvenile Justice so, as to ensure that no any child under circumstances is lodge in prison or jail or police lock up for that purpose. The Act established Juvenile Justice Board. The Juvenile Justice (Care & Protection of Children) Act was enacted in the year of 2000 to provide the protection of children up to the age of 18 years. This Act was also amended in the year 2006and 2011to fulfill the lacuna and make the law more

child friendly. During the course of implementation of Juvenile Justice (care and protection of Children) Act 2000 different issues come forward basically related with abuse of child in Aftercare Institution, Rehabilitation measures in homes, inadequate facilities in Juvenile Homes, Adoption procedure etc .have provide the need to review the existing law. Further, increasing the crime rate committed by the children in the age of 16 to 18 years makes clear that current provisions is not able to tackle the child offender in this age group. It is necessary to enact a comprehensive legislation to provide for general principal of care and protection of child.
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CHAPTER III

Present Status of Juvenile with special reference to the State of Maharashtra / (Bal Sankul)

3.0 The Status of the Juvenile at the International Level

3.1 The Status of the Juvenile at the National Level

3.2 The Status of the Juvenile in the Maharashtra: - The State of Maharashtra since in its inception has given much importance to promote the status of the Juvenile as it was not done in the past. The State has passed Several Legislations and the Non-Governmental organizations also played a vital role to improve the Status of Juvenile. In Tahsil and District level different Juvenile homes were Established and has started the education, health, employment and other facilities to safe guard the Juvenile as State is consider as guardian in a wider sense.

CHAPTER IV

The Role of Stake holder for Protection and Promotion of Juvenile

4.0 The Stake holder played an important role to promote and protect the rights of Juvenile. In this chapter the researcher is trying to trace out, how the Stake holders promote and protect the rights of Juvenile. A Survey will be conducted about the Stake holders to know whether the Stake holders are really helpful to protect and promote the rights of Juvenile in various mechanisms.

CHAPTER V

Constitutional Safeguards relating to Juvenile

5.0 The Constitution is the main source of all other Laws in India. In Constitution of India, various provisions are enumerated for the protection and promotion of Juveniles. It is fundamental duty of the State to protect the rights of the juvenile. In this chapter the researcher is going to find out whether the Constitutional provisions are really beneficial for protection and promotion of Juvenile.

CHAPTER VI

Legislative Approach for Protection and Promotion of Juvenile

6.0 Legislative Approach: - The Government of India and the State through its various enactments passed several laws after identifying the real problem as Juvenile. Some of the legislations are based on welfare I nature and on the other hand some of the legislations are to protect the life, liberty and dignity of life.

CHAPTER VII

Role of Judiciary in Protection and Promotion Juvenile / (Bal Sankul)

7.0 The Supreme Court and the High Court played a vital role to promote and to protect the welfare of the Juvenile. Besides enactment the various directions and guideline are given to the state the implement the same at the earliest. Judiciary is considered as a

watch dog on the state. Various judgments have been in this regard. The State Human Rights Commission and the National Human Rights Commission was established and also taking an active role to protect and promote the Juvenile.

CHAPTER VIII

Conclusion, finding and Suggestions

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Research Guide